

## **EXHIBIT E**

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE EASTERN DISTRICT OF MICHIGAN  
3                   SOUTHERN DIVISION

4       SANDRA GLOWACKI, on behalf of her  
5       minor children, D.K.G and D.C.G.,

6                   Plaintiffs,

7                   CASE NO. 11-cv-154891

8       vs

9       HOWELL PUBLIC SCHOOL DISTRICT,  
10       JOHNSON "JAY" MCDOWELL, individually  
11       and in his official capacity as a teacher  
12       in the Howell Public School District,

13                   Defendants.  
14       \_\_\_\_\_/

15               The Deposition of DANIEL GUERNSEY, taken before me,  
16       Jennifer Wall, CSR-4183, a Notary Public within and for the  
17       County of Oakland, Acting in Washtenaw, State of Michigan, at  
18       24 Frank Lloyd Wright Drive, Ann Arbor, Michigan on Friday,  
19       October 12, 2012.

20       APPEARANCES:

21               ERIN ELIZABETH MERSINO, ESQ.

22               The Thomas More Law Center  
23               24 Frank Lloyd Wright Drive  
24               Ann Arbor, Michigan 48106

25               (734) 827-2001

              Appearing on behalf of Plaintiff.

1 referenced?

2 A. I do.

3 Q. Could you tell me what you mean when you say the student was  
4 speaking in a fumbling way?

5 A. It was endearing and touching to read his deposition, and to  
6 see, here is a child who was, from what I can tell, received  
7 only minimal catechetical training in Sunday school, stand  
8 up to lawyers, stand up to a teacher and try to articulate  
9 something that was in his heart and in his culture that he  
10 was not fully trained to do.

11 And when -- I think it was -- I'm sorry. The  
12 questioning that -- I forgot your name.

13 MS. BARTOS: Bartos.

14 THE WITNESS: The questioning that you did  
15 was fantastic. And it's precisely what Mr. McDowell should  
16 have done.

17 When you got to the crux of the  
18 matter, in one question, that could have prevented this  
19 whole lawsuit, and you asked -- you know, the  
20 student -- this is from page 32, when you asked in line  
21 four.

22 "Q. Do you have a belief on  
23 homosexuality?

24 A. Yes."

25 Before this the student did a great

1 A. Absolutely.

2 Q. In what ways?

3 A. If one interprets to mean, I'm against gays, to mean that I  
4 hate gays and gays should be persecuted, then that is a  
5 terrible statement to make, and it is against human dignity  
6 and needs to be confronted accurately, okay.

7 If the statement "I'm against gays" means,  
8 you know what, my faith tradition teaches me that  
9 homosexual acts are disordered, then that is a  
10 legitimate expression of Catholic teaching and of the  
11 faith tradition of millions of people.

12 So that's the fumbling. It could have been  
13 easily solved, but there were other energies in the  
14 room.

15 Q. Without the follow-up that occurred in the deposition, do  
16 you believe that the student's initial expression in the  
17 classroom could reasonably have been interpreted as having  
18 anything to do with homosexual marriage?

19 A. Yes.

20 Q. Why is that?

21 A. Well, can you repeat the question. I'm sorry. I want to  
22 make sure we are talking about the same thing.

23 Q. Just to clarify, my understanding is that the student's  
24 initial expression in the classroom was "I don't accept  
25 gays"?

1 Q. Dr. Guernsey, first of all, why are you here in the Detroit  
2 area today?

3 A. To serve as an expert witness.

4 Q. Do you have other reason to come to Detroit?

5 A. No, but I appreciate the 15 minutes of fall. It's  
6 beautiful.

7 Q. Were you informed that the attorneys would come down to see  
8 you as opposed to you coming up here?

9 A. No.

10 Q. All right.

11 A. I'm glad I got the opportunity to come up though. I'd be  
12 glad to show you down in Florida as well. If you're going  
13 to come down, come down in February.

14 Q. Do you agree with the premise that teachers in the  
15 classroom, whether it be a Catholic school or a public  
16 school, have an obligation to protect their students?

17 A. Yes.

18 Q. And they have an obligation to stop what they perceive as  
19 bullying?

20 A. They have a responsibility to accurately assess the  
21 classroom environment.

22 Q. And to put an end to bullying in the classroom?

23 A. To put an end to accurately identify bullying, yes.

24 Q. And what they perceive as bullying, they need to stop,  
25 right?

1 MS. MERSINO: Objection. Asked and  
2 answered.

3 BY MS. BARTOS:

4 Q. You can go ahead and answer.

5 A. They need to make their best professional judgment and then  
6 be held accountable to those judgments.

7 Q. And if that judgment is that that one student is bullying  
8 another student, they have to stop that bullying?

9 A. They are to use the appropriate measures and means to  
10 protect all students.

11 Q. That means stop what they perceive as bullying?

12 A. Using the correct methodology and means, yes.

13 Q. Thank you. Do you have an opinion as to the appropriateness  
14 of Mr. McDowell giving like a five minute discussion or talk  
15 about anti-bullying and showing that video that he intended  
16 to show?

17 A. I don't know the context of the school and what the  
18 expectations were for the school. Normally, I would expect  
19 that not to occur in an economics class. And normally I  
20 would expect it to occur under a teacher who was properly  
21 trained and properly prepared to deal with the comprehensive  
22 nature of the discussion to ensure that no one's rights were  
23 harmed.

24 Q. Do you believe that he had a plan to host a discussion of  
25 homosexual -- of the homosexual experience? You mentioned

1           If that's what one means by accept, but  
2       clearly in Daniel's deposition that's not what I meant  
3       by "I don't accept gays". He has never bullied a gay,  
4       he is against gay bullying, he is against bullying in  
5       general. He says it, and yet this guy got kicked out  
6       of class because the teacher, in my estimation, is  
7       acting like a bully.

8   Q.   And your opinion to my question is based not just on the  
9       statement, "I don't accept gays, blacks, Jews", whatever the  
10      case, but what that person meant by that statement?

11   A.   Right, because if they're saying, I don't accept homosexual  
12      behavior as being moral, that is a legitimate faith claim  
13      that the student needs to be able to express in public.

14           If he's saying, "I don't accept homosexuals  
15      as people worthy of dignity and rights", then that  
16      would be against the cultural norm of human respect and  
17      the rights of the individuals and needs to be stopped,  
18      and the Catholic church teachers that.

19   Q.   I understand. Now I think I get where you're coming from.  
20      You're looking at what the -- what Dan meant by that  
21      statement as opposed to making that statement?

22           MS. MERSINO: Objection. That is a  
23      mischaracterization of his testimony. You may answer.

24           MS. BARTOS: You need me to repeat?

25           THE WITNESS: I need you to repeat.